



**BURLINGTON NORTHERN RAILROAD**

LAW DEPARTMENT

3800 Continental Plaza  
777 Main Street  
Ft. Worth, TX 76102  
(817) 333-3187  
Docket No. BN12064

RECORDATION NO. 11075-B FILED 1425

OCT 6 1994 - 12 05 PM

INTERSTATE COMMERCE COMMISSION

**VIA UPS**

October 5, 1994

Ms. Mildred Lee, Recordations  
Interstate Commerce Commission  
Room 2303  
12th and Constitution Avenue, N.W.  
Washington, D.C. 20423

Re: Document for Recordation: Bill of Sale and Release of Security Interest to Burlington Northern Inc. (now Burlington Northern Railroad Company) Conditional Sale Agreement Dated as of October 1, 1979 and Related Agreement and Assignment; and Related Amended and Restated Finance Agreement Dated as of December 1, 1982

Dear Ms. Lee:

I am enclosing 2 counterparts of the document described below to be recorded pursuant to Section 11303, Title 49 of the United States Code.

The document to be recorded, a secondary document, is a Bill of Sale and Release of Security Interest, dated September 23, 1994, by which all right, title and interest in and to the existing equipment covered by the Conditional Sale Agreement Dated as of October 1, 1979 is conveyed to Burlington Northern Railroad Company from Mercantile-Safe Deposit and Trust Company.

The Conditional Sale Agreement Dated as of October 1, 1979, the primary document to which the Bill of Sale and Release of Security Interest is connected, was recorded with the Interstate Commerce Commission on November 21, 1979 and assigned Recordation No. 11075. The related Agreement and Assignment was filed simultaneously with the Conditional Sale Agreement with the Interstate Commerce Commission on November 21, 1979 and therefore also assigned Recordation No. 11075. The related Amended and Restated Finance Agreement Dated as of December 1, 1982 was filed with the Interstate Commerce Commission on December 28, 1982 and assigned Recordation No. 11075-A.

Ms. Mildred Lee, Recordations  
October 5, 1994  
Page 2

The names and addresses of the parties to the transaction are:

Trustee: Mercantile-Safe Deposit and Trust Company  
Two Hopkins Plaza  
Baltimore, Maryland 21201

Owner: Burlington Northern Railroad Company  
3800 Continental Plaza  
777 Main Street  
Fort Worth, Texas 76102

A general description of the equipment covered by the enclosed Bill of Sale and Release of Security Interest is shown on Exhibits "A" and "B" of said document.

A check in the amount of \$18.00 is enclosed to cover the fee for recording the Bill of Sale and Release of Security Interest. Please file-stamp and return all counterparts not needed by the Commission for recordation to the undersigned.

A short summary of the document to appear in the index follows:

Bill of Sale and Release of Security Interest, dated September 23, 1994, to Conditional Sale Agreement Dated as of October 1, 1979 (ICC Recordation No. 11075, November 21, 1979) conveying the equipment described on Exhibits "A" and "B" of said document.

Very truly yours,



James E. Walton  
Legal Assistant

Enclosures

RECORDED

11075-B

OCT 6 1984 1:05 PM

Executed in 7 Counterparts  
of which this is No. 2

INTERSTATE COMMERCE COMMISSION

**BILL OF SALE AND RELEASE OF SECURITY INTEREST**

WHEREAS, FMC Corporation, General Electric Company and DIFCO, Inc. (collectively the "Manufacturers" and individually a "Manufacturer") and Burlington Northern Inc. (the "Railroad"), have entered into a Conditional Sale Agreement dated as of October 1, 1979, ("Agreement No. 79-A") covering the railroad equipment described in Exhibit "A" hereto (the "No. 79-A Equipment");

WHEREAS, Agreement No. 79-A was recorded with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act on November 21, 1979, and assigned Recordation No. 11075;

WHEREAS, each Manufacturer assigned its rights under Agreement No. 79-A and its right, security title and interest to the No. 79-A Equipment to the The Chase Manhattan Bank (National Association) (the "Assignee"), pursuant to an Agreement and Assignment dated as of October 1, 1979, between the Manufacturers and Assignee; said Agreement and Assignment was filed simultaneously with Agreement No. 79-A with the Interstate Commerce Commission on November 21, 1979, and therefore also assigned Recordation No. 11075;

WHEREAS, the Railroad, the Assignee, Mercantile-Safe Deposit and Trust Company (the "Agent") and various other parties have entered into an Amended and Restated Finance Agreement and Amendment dated as of December 1, 1982 thereby amending Agreement No. 79-A; said Amended and Restated Finance Agreement and Amendment

was filed with the Interstate Commerce Commission on December 28, 1982, and assigned Recordation No. 11075-A;

WHEREAS, Transportation Products Company (the "Vendor") and the Railroad have entered into a Conditional Sale Agreement dated as of October 1, 1979, ("Agreement No. 79-B" and hereinafter together with Agreement No. 79-A the "Agreements") covering the railroad equipment described in Exhibit "B" hereto (the "No. 79-B Equipment" and hereinafter together with the No. 79-A Equipment the "Equipment");

WHEREAS, Agreement No. 79-B was recorded with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act on December 26, 1979, and assigned Recordation No. 11231;

WHEREAS, the Vendor assigned its rights under Agreement No. 79-B and its right, security title and interest to the No. 79-B Equipment to the Assignee, pursuant to an Agreement and Assignment dated as of October 1, 1979, between the Vendor and the Assignee; said Agreement and Assignment was filed simultaneously with Agreement No. 79-B with the Interstate Commerce Commission on December 26, 1979, and therefore also assigned Recordation No. 11231;

WHEREAS, the Railroad, the Vendor and the Assignee have entered into a Amendment Agreement dated as of July 1, 1980 thereby amending Agreement No. 79-B; said Amendment Agreement was filed with the Interstate Commerce Commission on August 4, 1980, and assigned Recordation No. 11231-A;

WHEREAS, the Railroad, the Assignee, the Agent and various other parties have entered into an Amended and Restated Finance Agreement and Amendment dated as of December 1, 1982 thereby further amending Agreement No. 79-B; said Amended and Restated Finance Agreement and Amendment was filed with the Interstate Commerce Commission on December 28, 1982, and assigned Recordation No. 11231-B;

WHEREAS, the Agent has been paid the full indebtedness in respect of the purchase price of the Equipment, together with interest and all other payments as provided in the Agreements as amended, and the Railroad has performed all obligations therein contained.

NOW THEREFORE, the Agent does hereby (a) acknowledge that the Agreements as amended have been satisfied in full; (b) sell, assign, convey and transfer to the Railroad all its right, security title and interest in the Equipment; and (c) release any security interest it may have had in the Equipment, to the effect that such Equipment shall be transferred to the Railroad free and clear of all liens, charges, liabilities, claims, security interests and encumbrances, of any person whatsoever, created or retained by the Agreements as amended.

This Bill of Sale and Release of Security Interest is simultaneously executed in several counterparts, each of which so executed is deemed to be an original, and such counterparts together constitute but one and the same instrument.

IN WITNESS HEREOF, Agent has caused its corporate name to be

hereunto subscribed and its corporate seal to be duly affixed and  
attested by its officers thereunto duly authorized this 23rd day  
of September, 1994.

Mercantile-Safe Deposit and Trust Company

By: Robert D. Brown  
Robert D. Brown  
Corporate Trust Officer

ATTEST:

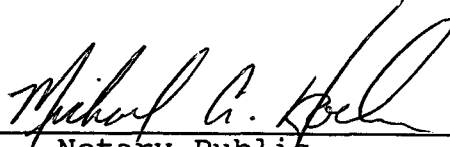


STATE OF Maryland

~~COUNTY~~ OF Baltimore, ss:  
City

On this 23rd day of September, 1994, before me personally appeared Robert D. Brown, to me personally known, who being by me duly sworn, says that (s)he is the Corporate Trust Officer of Mercantile-Safe Deposit and Trust Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(SEAL)

  
\_\_\_\_\_  
Notary Public

My commission expires: 9/25/94  
\_\_\_\_\_

LOCOMOTIVES (40 TOTAL):

Current BN Number

5047 - 5086

AIR DUMP CARS (10 TOTAL):

Previous FW&D Number

Current BN Number

963122 - 963130  
963131

963131

COVERED HOPPER CARS, 100-TON CAPACITY (943 TOTAL):

Current BN Number

460200 - 460220  
460222 - 460274  
460276 - 460287  
460289 - 460290  
460292 - 460293  
460296 - 460297  
460299 - 460313  
460315 - 460329  
460331 - 460356  
460358 - 460361  
460363 - 460384  
460386 - 460393  
460395 - 460402  
460404 - 460421  
460423 - 460470  
460472 - 460483  
460485 - 460494  
460496 - 460499  
460501 - 460530  
460532 - 460535  
460537 - 460545  
460547 - 460573  
460575 - 460599  
460601 - 460639  
460641 - 460643  
460645 - 460698  
460700 - 460707  
460710 - 460713  
460715 - 460718  
460720 - 460731  
460733 - 460736



Current BN Number

460739 - 460765  
460767 - 460769  
460771 - 460777  
460779 - 460809  
460811 - 460812  
460814 - 460850  
460852 - 460891  
460893 - 460910  
460912 - 460922  
460924 - 460925  
460927 - 460933  
460935 - 460941  
460943 - 460946  
460948 - 460972  
460974 - 460981  
460983 - 460992  
460994 - 460996  
460998 - 461021  
461023 - 461057  
461059 - 461096  
461098 - 461144  
461146 - 461159  
461161 - 461186  
461188 - 461199

LOCOMOTIVE CRANES, 40/50 TON CAPACITY (2 TOTAL):

Current BN Number

975425 - 975426

AGREEMENT AND ASSIGNMENT dated as of October 1, 1979 among FMC CORPORATION, a Delaware corporation (hereinafter called "FMC"), GENERAL ELECTRIC COMPANY, a New York corporation (hereinafter called "General Electric") and DIFCO, INC., an Ohio corporation (hereinafter called "DIFCO") (the foregoing companies being hereinafter collectively called the "Manufacturers", or severally called a "Manufacturer"), and THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), a national banking association organized under the laws of the United States of America, acting as Agent under a Finance Agreement dated as of the date hereof (hereinafter called the "Finance Agreement") (said bank so acting being hereinafter called the "Assignee").

WHEREAS, the Manufacturers and Burlington Northern Inc., a corporation duly organized and existing under the laws of the State of Delaware (hereinafter called the "Railroad"), have entered into a Conditional Sale Agreement, dated as of the date hereof (hereinafter called the "Conditional Sale Agreement"), covering the construction, sale and delivery, on the conditions therein set forth, by the respective Manufacturers and the purchase by the Railroad of the railroad equipment described in Schedules A, B and C to the Conditional Sale Agreement (said equipment being hereinafter called the "Equipment");

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to the respective Manufacturers, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. Each Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) All the right, security title and interest of such Manufacturer in and to the Equipment and each unit thereof to be constructed and sold by such Manufacturer when and as severally delivered and accepted and upon payment by the Assignee to such Manufacturer of the amounts required to be paid under Section 6 hereof with respect to such unit;

(b) All the right, title and interest of such Manufacturer in and to the Conditional Sale Agreement in respect of the Equipment to be constructed and sold by such Manufacturer thereunder (except the rights to cause to be constructed and to deliver the Equipment and the right to receive the payments specified in Sections 2.3 and 14.7 thereof and the right to reimbursement for taxes as provided in Section 7 of the Conditional Sale Agreement, and provided that such Manufacturer retains a right to indemnity as provided in Section 12.1 thereof notwithstanding assignment of such right hereunder), and in and to any and all amounts which may be or become due or owing to such Manufacturer under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) All of such Manufacturer's rights (except as herein provided), powers, privileges and remedies under the Conditional Sale Agreement (without any recourse, however, against such Manufacturer for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement); provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of each such Manufacturer to cause to be constructed and to deliver the Equipment to be sold by such Manufacturer in accordance with the Conditional Sale Agreement or in respect of its warranties and indemnities contained in Sections 12.3 and 13 of, and Schedules A, B and C to, the Conditional Sale Agreement or relieve the Railroad from its obligations to such Manufacturer under the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Section 14 of the Conditional Sale Agreement, all obligations of such Manufacturer to the Railroad in respect of the Equipment shall be and remain enforceable by the Railroad, its successors and assigns, against and only against such Manufacturer. In furtherance of the foregoing assignment and transfer, each Manufacturer hereby

authorizes and empowers the Assignee in the Assignee's own name, in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for such Manufacturer to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Railroad with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

Each Manufacturer agrees that any amount payable to such Manufacturer by the Railroad, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on any of the units of Equipment.

SECTION 2. Each Manufacturer covenants and agrees that it will cause the Equipment to be sold by such Manufacturer under the Conditional Sale Agreement to be constructed in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Railroad in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions to the Conditional Sale Agreement set forth to be performed and complied with by such Manufacturer. Each Manufacturer further covenants and agrees that it will warrant to the Assignee and the Railroad that at the time of delivery of each unit of the Equipment to be constructed and sold by such Manufacturer it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, security interests, liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement; and each Manufacturer further covenants and agrees that it will defend such title against all claims and demands whatsoever. Each Manufacturer will not deliver any of the Equipment to be constructed and sold by such Manufacturer to the Railroad until the filings and recordations referred to in Section 20 of the Conditional Sale Agreement have been effected.

SECTION 3. Each Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement

for any amount which may be due or owing by the Railroad on account of its indebtedness in respect of the aggregate Purchase Price of the Equipment and interest thereon, and any other sums becoming due under the Conditional Sale Agreement, or to enforce any provision of the Conditional Sale Agreement, each such Manufacturer will save, indemnify, defend and keep harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Railroad arising out of a breach by such Manufacturer of any obligation in respect of its Equipment, or the manufacture, construction, delivery or warranty thereof, or under Sections 12 and 13 of, or Schedules A, B and C to, the Conditional Sale Agreement, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by such Manufacturer. Any and all such obligations shall be and remain enforceable by the Railroad against and only against the respective Manufacturers and shall not be enforceable against the Assignee or any party or parties in whom security title to the Equipment, or any unit thereof, or any of the rights of the respective Manufacturers under the Conditional Sale Agreement shall vest by reason of this Assignment or of successive assignments or transfers. The respective Manufacturers shall have no liability under the foregoing provisions of this Section 3 unless (a) the Assignee, in any such suit, proceeding or action by the Assignee, hereinabove described, promptly moves or takes other appropriate action on the basis of Section 14.4 of the Conditional Sale Agreement, to strike any such defense, setoff, counterclaim or recoupment asserted by the Railroad, and the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, and (b) upon any such denial and acceptance, the Assignee promptly notifies the Manufacturer of the Equipment of any such defense, setoff, counterclaim or recoupment asserted by the Railroad and such Manufacturer is given the right by the Assignee to compromise, settle or defend against, at its expense, such defense, setoff, counterclaim or recoupment. Each Manufacturer will indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or

accruing against the Assignee or its assigns because of the use in or about the construction of the Equipment, or any unit thereof, to be constructed and sold by such Manufacturer, of any design, article or material which infringes, or is claimed to infringe, on any patent or other right, except for any design specified by the Railroad and not developed or purported to be developed by such Manufacturer or any article or material specified by the Railroad and not manufactured by such Manufacturer. Nothing in this Section 3 is intended to extend the scope of the Manufacturers' warranties which are always subject to the DISCLAIMERS OF IMPLIED WARRANTIES and limitations of remedy set forth therein.

SECTION 4. Each Manufacturer will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each unit of the Equipment, to be constructed and sold by such Manufacturer, at the time of delivery thereof to the Railroad, in letters not less than one inch in height, the following legend:

UNIT SUBJECT TO SECURITY INTEREST OF  
THE AGENT BANK UNDER CONDITIONAL SALE  
AGREEMENT RECORDED WITH THE I.C.C.

SECTION 5. Upon request of the Assignee, its successors and assigns, each Manufacturer will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of such Manufacturer therein or in the Equipment.

SECTION 6. Subject to timely receipt by the Assignee of funds sufficient for the purpose, the Assignee, on each Closing Date as provided in Section 3 of the Conditional Sale Agreement with respect to a Group of Equipment (as defined in said Section 3) or as otherwise hereinafter set forth, shall pay to the Manufacturer of each unit of Equipment in such Group an amount equal to the Purchase Price of such unit, provided that there shall have been delivered to the Assignee, as provided in the Conditional Sale Agreement, the following documents, in such number of counterparts or copies as may reasonably be requested, in form and substance satisfactory to it and to the special counsel for the Agent hereinafter mentioned:

(a) Bills of Sale from each of the Manufacturers of such Equipment to the Assignee, dated as of such Closing Date and in the form of Schedule 1 hereto, transferring to the Assignee security title to the units of the Equipment in such Group and warranting to the Assignee and to the Railroad that at the time of delivery to the Railroad under the Conditional Sale Agreement such Manufacturers had legal title to such units and good and lawful right to sell such units and title to such units was free of all claims, security interests, liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement;

(b) Certificate or Certificates of Acceptance signed by an authorized representative of the Railroad, dated the date of such acceptance and in the form of Schedule 2 hereto, stating that the units of the Equipment in such Group have been inspected and accepted by him on behalf of the Railroad and further stating that there was plainly, distinctly, permanently and conspicuously marked on each side of each of such units at the time of its acceptance, in letters not less than one inch in height, the following legend:

UNIT SUBJECT TO SECURITY INTEREST OF  
THE AGENT BANK UNDER CONDITIONAL SALE  
AGREEMENT RECORDED WITH THE I.C.C.

(c) Invoice for the units of the Equipment in such Group accompanied by or having endorsed thereon a certification by the Railroad as to the correctness of the prices of such units as set forth in said invoice;

(d) Opinion of counsel for the Railroad, dated as of a date within 21 days after the date of execution and delivery of the Conditional Sale Agreement and this Assignment and substantially in the form of Schedule 3 hereto, to the effect that (i) the Railroad is a duly organized and existing corporation in good standing under the laws of Delaware, its state of incorporation, and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and is a valid instrument binding upon and enforceable against the



Railroad in accordance with its terms, (iii) the execution, delivery and performance by the Railroad of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of the Railroad, or any indenture, agreement or other instrument to which the Railroad is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad, (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or this Assignment, or, if any authority is necessary, that it has been duly obtained and is in full force and effect, (v) the Conditional Sale Agreement and this Assignment have been duly filed and recorded in accordance with Section 20 of the Conditional Sale Agreement, (vi) that the Equipment is rolling stock under 11 U.S.C. §1168 and that the Assignee is entitled to the rights of a secured party with a purchase-money equipment security interest in the Equipment thereunder, (vii) that the Equipment consists of railroad cars, locomotives or other rolling stock used or intended for use in connection with interstate commerce as required by 49 U.S.C. §11303 and (viii) that upon delivery of each unit of Equipment to the Railroad and payment of its purchase price, the Assignee shall have a duly perfected purchase-money equipment security interest therein;

(e) On December 6, 1979 (hereinafter called the "Initial Closing") an opinion of counsel for each Manufacturer, dated as of such date and substantially in the form of Schedule 4 hereto, stating that (i) such Manufacturer is a duly organized and existing corporation in good standing under the laws of the state of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by such Manufacturer and is a valid instrument binding upon and

enforceable against such Manufacturer in accordance with its terms, (iii) the execution, delivery and performance by such Manufacturer of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of such Manufacturer, or any Indenture, agreement or other instrument to which such Manufacturer is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of such Manufacturer, (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or this Assignment, or, if any authority is necessary, that it has been duly obtained and is in full force and effect, (v) this Assignment has been duly authorized, executed and delivered by such Manufacturer and is a valid instrument binding upon and enforceable against such Manufacturer in accordance with its terms, and (vi) the Assignee is vested with all the right, title and interest of such Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for each Manufacturer of the Equipment in such Group, dated as of such Closing Date and substantially in the form of Schedule 5 hereto, reaffirming the opinion of such counsel delivered in respect of the Initial Closing and stating that security title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, were free of all claims, security interests, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement;

(f) In respect of the Initial Closing, the opinion of Milbank, Tweed, Hadley & McCloy as to the due authorization, execution and delivery by (i) the Railroad and each Manufacturer of the Conditional Sale Agreement and (ii) each Manufacturer of this Assignment

and the validity and binding nature as regards (x) the Railroad and each Manufacturer of the Conditional Sale Agreement and (y) each Manufacturer of this Assignment. For purposes of such opinion such counsel may rely (other than as to matters of New York or U.S. Federal law) upon the opinion of counsel for the Railroad and for each Manufacturer, respectively, referred to above (and upon any opinions referred to in said opinion); and

(g) In respect of the Initial Closing a certificate of a Vice President of the Railroad dated the date of the Initial Closing concerning the Railroad's Certificate of Incorporation and By-Laws, payment of taxes, good standing and to the effect that no Event of Default as specified in the Conditional Sale Agreement, or event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement would constitute such an Event of Default, has occurred and is continuing, and to the effect that, since December 31, 1978, there has been no material adverse change in the affairs or financial condition of the Railroad in the form of Schedule 6 hereto, a Certificate of Incumbency in the form of Schedule 7 hereto and a Certificate of Resolutions in the form of Schedule 8 hereto.

(h) In respect of each Closing Date a certificate of a Vice President of the Railroad dated the date of such Closing Date and in the Form of Schedule 9 hereto.

In giving the opinions specified in subparagraphs (d), (e) and (f) of the first paragraph of this Section 6, counsel may qualify any opinion to the effect that any agreement is enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Initial Closing may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly

conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date, or, if any of such parties default in furnishing such funds, the prior receipt by the Assignee from the Railroad of such funds as provided in the Finance Agreement; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Railroad shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account of the Purchase Price of the Equipment to be settled for on such Closing Date, the Railroad shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under Section 3.3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Railroad. By any such payment, however, the Railroad shall not acquire any rights under this Assignment. If the Assignee fails to pay any Manufacturer any amount required to be paid with respect to any unit of Equipment pursuant to this Section 6 at the time herein specified, then any right, title and interest in and to such unit, to the extent of such amount, including any right, title and interest under the Conditional Sale Agreement with respect to such unit, to the extent of such amount, which has been assigned, transferred or set over to the Assignee by such Manufacturer, shall automatically, and without further action on the part of the Assignee, be reassigned, transferred and set over back to such Manufacturer by the Assignee.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Section 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement shall constitute an Event of Default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Railroad thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder. The address of the Assignee for purposes of notices and payments is 1 Chase Manhattan Plaza, New York, New York 10081, Attention: Land Transportation Division or such other address as the Assignee shall have furnished in writing to the Railroad.

SECTION 8. Each Manufacturer hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the other Manufacturers and by the Railroad, the Conditional Sale Agreement is, in so far as such Manufacturer is concerned, a valid and existing agreement binding upon such Manufacturer and the Railroad in accordance with its terms and that it is now in force, without amendment thereto; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Railroad. Although this Assignment is dated for convenience as of October 1, 1979,

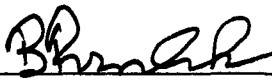
the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

SECTION 10. The terms of this Assignment and the rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable federal law and such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment, as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited.

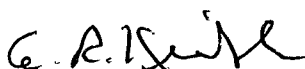
IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

FMC CORPORATION

[CORPORATE SEAL]

By   
Title:

Attesting:

  
Asst Secretary

## GENERAL ELECTRIC COMPANY

[CORPORATE SEAL]

By 

Title:

MANAGER-MARKETING  
LOCOMOTIVE MARKETING DEPARTMENT

Attest:

  
Attesting Secretary



DIFCO, INC.

[CORPORATE SEAL]



By Fred F. Flowers  
~~Vice~~ President

Attest:

Mary Schindler  
Assistant Secretary



[CORPORATE SEAL]

THE CHASE MANHATTAN BANK  
(NATIONAL ASSOCIATION), Agent

By *Scott Stevens*  
*Second* Vice President


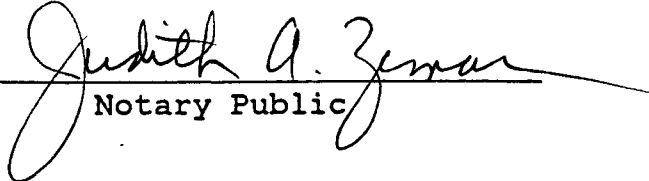
Attest:

*Victor R. Lurue*  
Title:  
ASSISTANT TREASURER

STATE OF ILLINOIS     )  
                              :SS.:  
COUNTY OF COOK        )

On this 16th day of November, 1979, before me personally appeared B. R. van Eck to me personally known, who, being by me duly sworn, says that he is a Vice President of FMC CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

  
  
Notary Public

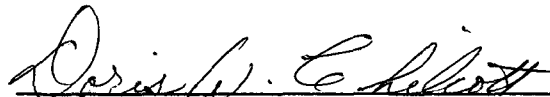
COMMONWEALTH OF PENNSYLVANIA)

:SS.:

COUNTY OF ERIE )

On this 19<sup>th</sup> day of November, 1979, before me personally appeared R.D. MOREY, to me personally known, who, being by me duly sworn, says that he is a MANAGER MARKETING LOCOMOTIVE MARKETING DEPARTMENT of GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

  
Notary Public

DORIS W. CHILCOTT, NOTARY PUBLIC  
LAWRENCE PARK TWP., ERIE CO., PA.  
MY COMMISSION EXPIRES NOV. 26, 1979

STATE OF OHIO                   )  
                                      :SS.:  
COUNTY OF HANCOCK            )

On this <sup>16<sup>th</sup></sup> day of November, 1979, before me personally appeared Fred F. Flowers to me personally known, who, being by me duly sworn, says that he is a ~~Vice~~ President of DIFCO, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

Northa E. Buckland  
Notary Public  
Exp 7-9-82

STATE OF NEW YORK     )  
                              :SS.:  
COUNTY OF NEW YORK    )

On this <sup>15</sup> day of November, 1979, before me personally appeared J. Scott Suter to me personally known, who, being by me duly sworn, says that he is a <sup>Second</sup> Vice President of THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

  
Notary Public

STANLEY JENDRAS  
Notary Public, State of New York  
No. 24-4680456  
Qualified in Kings County  
Cert. filed in New York City Co.  
Commission expires March 30, 1980

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged.

BURLINGTON NORTHERN INC.

By Frank H. Coyne  
Executive Vice President-  
Finance and Administration

Dated November , 1979

SCHEDULE 1

BILL OF SALE

NO. \_\_\_\_\_

\_\_\_\_\_ (hereinafter called the Manufacturer), in consideration of the sum of One Dollar (\$1) and other good and valuable consideration paid by THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION) (hereinafter called the Assignee), Assignee under an Agreement and Assignment dated as of October 1, 1979 between the Manufacturer and the Assignee, by which the Manufacturer assigned to the Assignee certain rights of the Manufacturer under a Conditional Sale Agreement dated as of October 1, 1979, among the Manufacturer, BURLINGTON NORTHERN INC. (hereinafter called the Railroad) and certain other builders, at or before the execution and delivery of these presents, the receipt of which is hereby acknowledged, does hereby grant, the security interest of the Manufacturer in and to the following units of railroad equipment (hereinafter called the Equipment) which have been delivered by the Manufacturer to the Railroad pursuant to said Conditional Sale Agreement:

<u>Description</u>	<u>Quantity</u>	<u>Railroad Nos.</u>
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To have and to hold all and singular the security title to the above described units of railroad Equipment to the Assignee, its successors and assigns, for its and their own use and behoof forever.

And the Manufacturer hereby warrants to the Assignee, its successors and assigns, and to the Railroad that at the time of delivery of each of the above-described units of railroad equipment to the Railroad under the above-mentioned Conditional Sale Agreement the Manufacturer had legal title thereto and good and lawful right to sell each



such unit and the title to each such unit was free and clear of all claims, liens, security interests and encumbrances of any nature except only the rights of the Railroad under said Conditional Sale Agreement; and the Manufacturer covenants that it will defend such title to the Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of the Equipment by the Manufacturer under the Conditional Sale Agreement.

IN WITNESS WHEREOF, the Manufacturer has caused this instrument to be executed in its name by a duly authorized officer and its corporate seal to be hereunto affixed, duly attested, the        day of        , 1980.

[Seal]

By \_\_\_\_\_  
Title:

Attest:

\_\_\_\_\_  
Assistant [Attesting] Secretary

SCHEDULE 2

CERTIFICATE OF ACCEPTANCE  
UNDER CONDITIONAL SALE AGREEMENT

I, a duly appointed inspector and authorized representative of BURLINGTON NORTHERN INC. (the "Railroad"), do hereby certify that I have inspected, received, approved and accepted delivery on behalf of the Railroad under the Conditional Sale Agreement dated as of October 1, 1979 among FMC Corporation, General Electric Company and Difco, Inc. (the "Manufacturers") and the Railroad, of the following items of Equipment (the "Equipment"):

TYPE OF EQUIPMENT:

MANUFACTURER:

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF ITEMS:

NUMBERED:

I do further certify that the foregoing Equipment is in good order and condition, and conforms to the Specifications applicable thereto, and at the time of delivery to the Railroad there was plainly, distinctly, permanently and conspicuously marked in contrasting colors upon each side of the Item of Equipment the following legend in letters not less than one inch in height:

"Unit Subject to Security Interest of the  
Agent Bank under Conditional Sale Agreement  
Recorded with I.C.C."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Vendor or the Manufacturer of the Equipment for warranties it has made with respect to the Equipment.

Date: , 1980

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Inspector and Authorized  
Representative of Railroad

SCHEDULE 3

[Letterhead of Burlington Northern Counsel]

, 1979

The Chase Manhattan Bank  
(National Association)  
1 Chase Manhattan Plaza  
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As attorney for Burlington Northern Inc. (hereinafter called the "Railroad"), I have examined and am familiar with (a) the Restated Certificate of Incorporation and By-laws of the Railroad; (b) the Conditional Sale Agreement dated as of October 1, 1979 (hereinafter called the "Conditional Sale Agreement"), among FMC Corporation, General Electric Company, Difco, Inc. and the Railroad covering railroad equipment therein referred to; (c) the Agreement and Assignment dated as of October 1, 1979 among FMC Corporation, General Electric Company and Difco, Inc. and you as Agent for the Investors under a Finance Agreement dated as of October 1, 1979; and (d) all corporate and other proceedings taken by the Railroad in connection with the execution and delivery of the Conditional Sale Agreement.

I have also examined originals, or copies certified or otherwise identified to my satisfaction, of such other documents and instruments as I have deemed necessary or appropriate for the purposes of this opinion.

As attorney for the Railroad, I am of the opinion that:

(i) The Railroad is a duly organized and validly existing corporation in good standing under the laws of the State of Delaware, its state of incorporation, and has the

power and authority to own its properties and to carry on its business as now conducted and is duly qualified to do business as a foreign corporation in all states where the character of its properties or the nature of its activities makes such qualification necessary;

(ii) The Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and is a valid and binding instrument enforceable against the Railroad in accordance with its terms (subject, as to the enforcement of remedies, to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditor's rights generally from time to time in effect);

(iii) The execution and delivery and performance by the Railroad of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of the Railroad, or any indenture, agreement, or other instrument to which the Railroad is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad;

(iv) No approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or the Agreement and Assignment;

(v) The Conditional Sale Agreement and the Agreement and Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act and have been duly deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada (with notice of such deposit published in the Canada Gazette on November 1979 in accordance with Section 86 of the Railway Act of Canada), the security interest created by said instruments has been duly perfected and is subject to no prior lien,

security interest or encumbrance and no other filing, recordation, depositing, giving of notice, refiling, rerecording, redepositing or regiving of notice is necessary for the protection of the rights of the Agent in any State of the United States of America or to make said instruments valid against all persons under Canadian law;

(vi) The Equipment is rolling stock under 11 U.S.C. §1168 and the Assignee is entitled to the rights of a secured party with a purchase-money equipment security interest in the Equipment thereunder;

(vii) The Equipment consists of railroad cars, locomotives or other rolling stock used or intended for use in connection with interstate commerce as required by 49 U.S.C. §11303; and

(viii) Upon delivery of each unit of Equipment to the Railroad and payment of its purchase price, the Assignee shall have a duly perfected purchase-money equipment security interest therein.

Very truly yours,

SCHEDULE 4

[Letterhead of Counsel to Manufacturer]

November , 1979

The Chase Manhattan Bank  
(National Association)  
1 Chase Manhattan Plaza  
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As counsel for \_\_\_\_\_, a  
\_\_\_\_\_ corporation (the "Manufacturer"), I have  
examined counterparts of: (i) the Conditional Sale  
Agreement dated as of October 1, 1979 (the "Conditional Sale  
Agreement"), among the Manufacturer, Burlington Northern  
Inc. (the "Railroad") and certain other manufacturers; (ii)  
the Agreement and Assignment dated as of October 1, 1979  
(the "Assignment"), among the Manufacturer, certain other  
manufacturers and The Chase Manhattan Bank (National  
Association), as Agent (the "Assignee"); and (iii) such  
other documents as I have deemed necessary to render the  
opinion set forth below.

Based upon the foregoing, I am of opinion that:

(i) the Manufacturer is a duly organized and  
existing corporation in good standing under the  
laws of the State of \_\_\_\_\_ and has the power  
and authority to own its properties and to carry on  
its business as now conducted;

(ii) the Conditional Sale Agreement has been  
duly authorized, executed and delivered by the  
Manufacturer and is a valid instrument binding upon  
and enforceable against the Manufacturer in

accordance with its terms, subject to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally;

(iii) the execution, delivery and performance by the Manufacturer of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Certificate of Incorporation or By-Laws of the Manufacturer, or any indenture, agreement or other instrument to which the Manufacturer is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Manufacturer;

(iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement;

(v) the Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, subject to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally; and

(vi) the Assignee is vested with all the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by the Manufacturer under the Assignment.

Very truly yours,



SCHEDULE 5

[Letterhead of Counsel to Manufacturer]

, 1980

The Chase Manhattan Bank  
(National Association)  
1 Chase Manhattan Plaza  
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As counsel for \_\_\_\_\_, a  
\_\_\_\_\_ corporation (the "Manufacturer"), I have  
examined counterparts of: (i) the Conditional Sale  
Agreement dated as of October 1, 1979 (the "Conditional Sale  
Agreement"), among the Manufacturer, Burlington Northern  
Inc. (the "Railroad") and certain other manufacturers; (ii)  
the Agreement and Assignment dated as of October 1, 1979  
(the "Assignment"), among the Manufacturer, certain other  
manufacturers and The Chase Manhattan Bank (National  
Association), as Agent (the "Assignee"); (iii) the Bill of  
Sale dated as of the date hereof (the "Bill of Sale") from  
the Manufacturer to the Assignee transferring to the  
Assignee the security title of the Manufacturer in the units  
of railroad equipment (the "Equipment") described therein;  
and (iv) such other documents as I have deemed necessary to  
render the opinion set forth below.

Based upon the foregoing, I am of opinion that:

(i) my opinion of counsel dated [date of  
opinion delivered in the form of Schedule 5 hereto]  
is true and correct as of the date hereof as if  
such opinion of counsel had been made on and as of  
such date and I hereby affirm such opinion of  
counsel; and

(ii) upon delivery of the Bill of Sale to the Assignee, security title to the Equipment will be validly vested in the Assignee, and each unit of the Equipment, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, was free of all claims, security interests, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement.

Very truly yours,

## SCHEDULE 6

### Certificate

I, \_\_\_\_\_, Vice President of Burlington Northern Inc., a Delaware corporation (herein called the "Railroad"), HEREBY CERTIFY that:

1. Attached hereto as Exhibits A and B are true and complete copies of the Certificate of Incorporation and By-Laws, respectively, of the Railroad as in effect on [the date of corporate action authorizing the transaction] and at all subsequent times to and including the date hereof.

2. After due inquiry I know of no proceeding for the dissolution or liquidation or threatening the existence of the Railroad and to my knowledge the Railroad is in good standing in the State of Delaware.

3. All tax returns have been filed by the Railroad as required by law and all taxes have been paid except such taxes as are not yet due.

4. I am familiar with the terms of the Conditional Sale Agreement dated as of October 1, 1979 (herein called the "Conditional Sale Agreement") among FMC Corporation, General Electric Company, Difco, Inc. and the Railroad covering railroad equipment therein referred to and I am familiar with the terms and conditions of the various documents mentioned and described in the Conditional Sale Agreement. Terms defined in the Conditional Sale Agreement have the same meanings when used herein.

5. As to matters hereinbelow set forth, I have personal knowledge or have obtained information from officers or employees of the Railroad in whom I have confidence and whose duties require them to have personal knowledge thereof, and I make this certificate pursuant to the provisions of § 6(g) of an Agreement and Assignment dated as of October 1, 1979 among the Manufacturers and their Assignee thereunder with the intention that this

certificate shall be relied upon by the Assignee and certain Investors under a Finance Agreement dated as of October 1, 1979 as the basis for their execution and delivery of said Finance Agreement and said Agreement and Assignment on the date hereof.

6. The representations and warranties contained in the Conditional Sale Agreement are (except as affected by the transactions contemplated by the Conditional Sale Agreement) true on the date hereof with the same effect as though such representations and warranties had been made on and as of the date hereof, and no Event of Default specified in § 16 of the Conditional Sale Agreement and no event which, with the lapse of time or the notice and lapse of time specified in said § 16, would become such an Event of Default has occurred and is continuing.

7. Since December 31, 1978 there has been no material adverse change in the affairs or financial condition of the Railroad.

WITNESS my hand this \_\_\_\_\_ day of December, 1979

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SCHEDULE 7

BURLINGTON NORTHERN INC.

CERTIFICATE OF INCUMBENCY

I, G. F. Steinhibel, hereby certify that I am an Assistant Secretary of Burlington Northern Inc. (the Company); that as such Assistant Secretary I am one of the keepers of the records and corporate seal of the Company; that each of the persons named below is the duly elected or appointed incumbent of the office of the Company set opposite his name and has been duly qualified and acting as such officer of the Company at all times since the date of his election or appointment to and including the date and delivery of this Certificate; and that the genuine signatures of said officers are set opposite their names:

Office

Executive Vice President-  
Finance and Administration      Frank H. Coyne \_\_\_\_\_

Vice President and  
Treasurer      R.C. Burton, Jr. \_\_\_\_\_

Assistant Secretary      G.F. Steinhibel \_\_\_\_\_

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company this      day of November, 1979.

\_\_\_\_\_  
Assistant Secretary

I,  
Burlington Northern Inc. (the Company), do hereby certify of  
that G. F. Steinhibel is a duly appointed Assistant  
Secretary of the Company on the date hereof; that I am  
familiar with the signature of G. F. Steinhibel; and that  
the signature set opposite his name in the foregoing  
certificate is his genuine signature.

IN WITNESS WHEREOF, I have hereunto set my hand  
this day of November, 1979.

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SCHEDULE 8

RESOLUTIONS

OF

BURLINGTON NORTHERN INC.

I, \_\_\_\_\_, \_\_\_\_\_ of BURLINGTON NORTHERN INC., a Delaware corporation, HEREBY CERTIFY that the following resolutions were duly adopted at a meeting of the Board of Directors of said corporation duly called and held at \_\_\_\_\_, on \_\_\_\_\_, at which a quorum was present and acting throughout:

[Form of resolutions to be provided by the Railroad.]

I HEREBY FURTHER CERTIFY that said resolutions have not been modified and are still in full force and effect and that the form of said Conditional Sale Agreement submitted to said meeting was substantially the form in which it was executed.

IN WITNESS WHEREOF, I have signed this certificate this \_\_\_\_\_ day of November, 1979.

\_\_\_\_\_

SCHEDULE 9

CERTIFICATE

I, \_\_\_\_\_, Vice President of Burlington Northern Inc. (hereinafter called the "Railroad"), do hereby certify that (i) there has been no change in the Railroad's Restated Certificate of Incorporation or By-Laws subsequent to [the date of the Certificate exhibited in Schedule 7], (ii) after due inquiry I know of no proceeding for the dissolution or liquidation or threatening the existence of the Railroad and to my knowledge the Railroad is in good standing in the State of Delaware, (iii) all tax returns have been filed by the Railroad as required by law and all taxes have been paid except such taxes as are not yet due, (iv) the resolutions of the directors of the Railroad adopted on \_\_\_\_\_ have not been modified and are still in full force and effect, (v) each person duly elected or appointed incumbent of the office of the Railroad set opposite his name in the Certificate of Incumbency dated \_\_\_\_\_ is duly qualified and acting as such officer of the Railroad on the date hereof, (vi) the representations and warranties contained in the Conditional Sale Agreement (as mentioned below) are (except as affected by the transactions contemplated by said Conditional Sale Agreement) true on the date hereof with the same effect as though such representations and warranties had been made on and as of the date hereof, and no Event of Default specified in § 16 of the Conditional Sale Agreement and no event which, with the lapse of time or the notice and lapse of time specified in said § 16, would become such an Event of Default has occurred and is continuing, and (vii) since December 31, 1978 there has been no material adverse change in the affairs or financial condition of the Railroad.

I am familiar with the terms of the Conditional Sale Agreement dated as of October 1, 1979 (herein called the "Conditional Sale Agreement") among FMC Corporation, General Electric Company, Difco, Inc. and the Railroad covering railroad equipment therein referred to and I am familiar with the terms and conditions of the various documents mentioned and described in the Conditional Sale



Agreement. Terms defined in the Conditional Sale Agreement have the same meanings when used herein.

As to matters hereinbelow set forth, I have personal knowledge or have obtained information from officers or employees of the Railroad in whom I have confidence and whose duties require them to have personal knowledge thereof, and I make this certificate pursuant to the provisions of § 6(h) of an Agreement and Assignment dated as of October 1, 1979 among the Manufacturers and their Assignee thereunder with the intention that this certificate shall be relied upon by the Assignee and certain Investors under a Finance Agreement dated as of October 1, 1979 as the basis for their making certain payments to the Manufacturers for delivery of railroad equipment to the Railroad on the date hereof.

Dated:                      , 1980

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